

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Case No: [14-cv-02346-JCS and Consolidated Case No. 14-cv-05337-JCS](#)Case Name: Wit v. United Healthcare Insurance Company & Consolidated: Alexander v. United Healthcare

TRIAL SHEET, EXHIBIT and WITNESS LIST

CHIEF MAGISTRATE JUDGE: Joseph C. Spero	PLAINTIFF ATTORNEY: Caroline Reynolds, Carl S. Kravitz Jason Cowart, Adam Abelson, Aitan Goleman	DEFENSE ATTORNEY: Jennifer Romano, Nathan Bualat, Jeffrey Rutherford, April Ross, Andrew Holmer
BENCH TRIAL DATE: 10/17/17	REPORTER(S): Joann Bryce & Kathy Sullivan	CLERK: Karen L. Hom

PLF NO.	DEF NO.	DATE/TIME OFFERED	ID	REC	DESCRIPTION
		7:45 AM			Plaintiffs' counsel present.
		8:15 AM			Defendant's counsel and parties present. Clerk advised the parties that they no longer need to file in the Alexander case (14-5337) as it has now been consolidated into the Wit case. Parties advised that the Court will stop at 3:30 today and on Wed., 10/18 at 3:00.
		8:27 AM			Court convened. Court to take up objections re: exhibits to be used with witness Niewenhous by Romano. The objections are OVERRULED as to exhibits 493, 384, 388, 397, 405, 429, 445, 447, 477, 493, 494, 497, 555, 560.
		8:36 AM			Court proceedings stopped due to technical difficulties with Court equipment.
		8:43 AM			Court reconvened. Mr. Goleman brings up housekeeping issue that Dr. Alam's report, which was marked as Exh. 880, is now renumbered as Exh 891.
		8:44 AM			Resume re-direct exam of Dr. Fishman by Goleman.
		9:51 AM			Re-cross exam of Dr. Fishman by Rutherford.
		10:09 AM			Court recessed for morning break.
		10:35 AM			Court reconvened. Discussion held re: sealing of documents used in testimony of Mr. Niewenhous. Court ruled that at the end of testimony the Court will address the sealed exhibit, subject to any objections, to seal the courtroom for direct and cross-exam on the sealed documents.
		10:38 AM			Plaintiffs' witness Gerard Niewenhous (Jerry). Clerk administered witness oath. Direct exam by Ms. Reynolds.
540		10:43 AM	X	X	Exh 540 Email with subject "For Our 1:1," with attachments.
512		10:45 AM	X	X	Exh 512 PowerPoint presentation with title "OptumHealth Guideline Touchbase Call."
768		10:52 AM	X	X	Exh 768 Email chain with subject "Friday meet with sandy cohen re parity," with attachments.

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PLF NO.	DEF NO.	DATE/TIME OFFERED	ID	REC	DESCRIPTION
735		10:55 AM	X	X	Exh 735 Email with subject "Briefing on Custodial Care (1111 Draft 3)," with attachments.
281		11:00 AM	X	X	Exh 281 Developing a Hierarchy of Clinical Evidence for Coverage Determination Guidelines
264		11:03 AM	X	X	Exh 264 UBH Care Advocacy Policy - Clinical Guidelines: Development and Approval, Dissemination and Use, revised August 2014
265		11:05 AM	X	X	Exh 265 UBH Care Advocacy Policy - Clinical Guidelines: Development and Approval, Dissemination and Use (Aug 2015)
522		11:06 AM	X	X	Exh 522 Email chain with subject "feedback needed," with attachment.
656		11:29 AM	X	X	Exh 656 Medicare Benefit Policy Manual, Chapter 6 - Hospital Services Covered Under Part B, dated 12/18/15.
307		11:43 AM	X	X	Exh 307 CDC Minutes dated 7/1/10.
592		11:53 AM	X	X	Exh 592 Email with subject "Input on the 2012 Level of Care Guidelines - 888/844-7278, 7326539," with attachment.
335		11:57 AM	X	X	Exh 335 Email with subject "Clinical Guidelines Training," with attachment dated 4/5/12
655		12:13 PM	X	X	Exh 655 Medicare Benefit Policy Manual, Chapter 2 - Inpatient Psychiatric Hospital Services dated 5/13/16
		12:15 PM			Court recessed for lunch. Resume at 1:15 PM.
		1:12 PM			All counsel and parties present.
		1:23 PM			Court reconvened. Continued direct exam of Gerard Niewenhaus by Reynolds.
654		1:41 PM	X	X	Exh 654 Medicare Benefit Policy Manual, Chapter 16 - General Exclusions from Coverage dated 1/6/14
445		1:45 PM	X	X	Exh 445 Optum Medicare Coverage Summary for Psychiatric and Psychological Outpatient Services

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PLF NO.	DEF NO.	DATE/TIME OFFERED	ID	REC	DESCRIPTION
497		1:45 PM	X	X	Exh 497 Optum Medicare Coverage Summary for Psychiatric and Psychological Outpatient Services
477			X	X	Exh 477 Optum Medicare Coverage Summary for Alcohol and Substance Abuse Treatment
555			X	X	Exh 555 Optum Medicare Coverage Summary for Psychiatric and Psychological Outpatient Services
494			X	X	Exh 494 Optum Medicare Coverage Summary for Alcohol and Substance Abuse Treatment
437		2:01 PM	X	X	Exh 437 Email chain with subject "Medical Necessity Definition for BH LOCG."
450		2:06 PM	X	X	Exh 450 Email with subject "Please Add a Guideline Page to inSite," with attachment.
268		2:12 PM	X	X	Exh 268 Guideline Applicability Tool - Optum Clinical Guidelines October 2014
269			X	X	Exh 269 Guideline Applicability Tool - Optum Clinical Guidelines November 2014
270		2:13 PM	X	X	Exh 270 Guideline Applicability Tool - Optum Clinical Guidelines January 2015
271			X	X	Exh 271 Guideline Applicability Tool - Optum Clinical Guidelines March 2015
272			X	X	Exh 272 Guideline Applicability Tool - Optum Clinical Guidelines May 2015
273			X	X	Exh 273 Guideline Applicability Tool - Optum Clinical Guidelines September 2015
274			X	X	Exh 274 Guideline Applicability Tool - Optum Clinical Guidelines January 2016
275		2:14 PM	X	X	Exh 275 Guideline Applicability Tool - Optum Clinical Guidelines May 2016
276			X	X	Exh 276 Guideline Applicability Tool - Optum Clinical Guidelines July 2016
277			X	X	Exh 277 Guideline Applicability Tool - Optum Clinical Guidelines August 2016
278			X	X	Exh 278 Guideline Applicability Tool - Optum Clinical Guidelines August 2016 Guideline Applicability Tool - Optum Clinical Guidelines January 2017
493		2:18 PM	X	X	Exh 493 Email with subject "For Our Next 1:1." Dated 5/26/15

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PLF NO.	DEF NO.	DATE/TIME OFFERED	ID	REC	DESCRIPTION
378		2:21 PM	X	X	Exh 378 Email chain with subject "Implementing CT UR Reg - 888/844-7278, 7326539," with attachments.
402		2:25 PM	X	X	Exh 402 Email with subject "UR Deficiency #3-Guidelines," with attachment.
506		2:39 PM	X	X	Exh 506 Email with subject "Follow-up for the CT DOI," with attachments.
322		2:46 PM	X	X	Exh 322 Email chain with subject "interesting request from HPHC re: our guidelines."
342		2:48 PM	X	X	Exh 342 Email with subject "Denial process documentation."
786		2:50 PM	X	X	Exh 786 Email chain with subject "LOCATDR for BPAC."
		2:53 PM			Court recessed for 10 min break
		3:07 PM			All parties and counsel present. Court reconvened. Ms. Reynolds moved to have Exh 342 admitted. Continued direct exam of Niewenhous by Reynolds.
		3:14 PM			Court intends to go into a sealed proceeding and seal the courtroom. Court will hear any objection. Brian Cada stated his objection to sealing the courtroom. Objection is OVERRULED . Anyone who is not a party to this action will need to leave. Courtroom is cleared.
		3:17 PM SEALED			Court went into a SEALED PROCEEDING.
372			X	X	Exh 372 Email chain with subject "IOP CDGS - Question." FILED UNDER SEAL
		3:21 PM			Courtroom reopened to the public. Cross-exam by Ms. Romano.
		3:38 PM			Housekeeping issue brought up by Mr. Rutherford re: protocol for conferring with a witness who is already on the stand. Court ruled that counsel may not confer with the witness once they are on the stand.
		3:41 PM			Court recessed for the day. Bench trial resumes on 10/18/17 at 8:30 AM.
					Clerk reviewed admitted exhibits with counsel and all are in agreement.
					Pla Time: 15:13:28 Dft Time: 21:45:50